

Monthly Town Board Meeting
July 12, 2007

The Town Board of the Town of Philipstown held their Monthly Meeting on the above date at 8:10 p.m. at the Town Hall, 238 Main Street, Cold Spring, New York.

PRESENT:

William Mazzuca	Supervisor
Betty Budney	Councilwoman
Al Hosmer	Councilman
Richard Shea	Councilman
David Brower	Councilman
Edward W. Doyle	Town Attorney

Supervisor Mazzuca opened the Meeting with a Salute to the Flag.

REVIEW OF MINUTES

The Minutes of the Monthly Town Board Meeting of June 7, 2007, were reviewed.

Councilman Brower made a motion, seconded by Councilwoman Budney and unanimously carried that the Minutes of June 7, 2007, be approved as presented.

The Minutes of the Weekly Town Board Meeting of June 27, 2007, were reviewed.

Councilwoman Budney made a motion, seconded by Councilman Shea and unanimously carried that the Minutes of June 27, 2007, be approved as presented.

COMMITTEE REPORTS

HIGHWAY – Councilman Hosmer reported that routine maintenance is underway. Supervisor Mazzuca added that the Town Board met with residents of Upland Drive and Albany Post Road at the Continental Village Clubhouse last night to discuss erosion issues. He also stated that the Town has submitted an FEMA application for damages from the April 2007 storm.

PLANNING – Councilman Brower reported on the items addressed at the Planning Board Meeting of June 21, 2007. He also noted that the next scheduled meeting will be held on July 26, 2007, at the Recreation Community Center.

RECREATION – Councilwoman Budney reviewed the upcoming Summer Events offered through the Recreation Department.

CAC – Councilman Shea reported that John Sussmeier has submitted his letter of resignation from the CAC. He noted that John will be missed. He has served for 12 years on the Wetlands and the CAC. He is an engineer that has added a dimension of professionalism to the meetings and was extremely organized.

Councilman Shea stated that on behalf of the North Highlands Fire Department, he encourages residents to attend the public informational meetings with regard to the building referendum. The next one will be held July 31st at 7:30 p.m.

RECYCLING – Councilman Budney reported that members of the Town Board met with both villages to discuss shared recycling. Continued dialogue is anticipated with regard to this matter.

BUILDING & LAND ACQUISITION – Councilman Shea reported that the Town Board met to review the proposals submitted for the renovations to the Town Hall. He believes that the Town will be making a decision shortly with regard to hiring a design engineer to oversee this project.

ZONING – Councilman Brower reviewed the items addressed at the June 25th and July 9th Zoning Board of Appeals Meetings.

Michael Gibbons asked Supervisor Mazzuca if the FEMA monies would be used for various projects. Supervisor Mazzuca responded saying that there were six (6) projects submitted to FEMA for funding. He noted that the monies could only be spent on those six (6) projects. The Town Board credited Roger Chirico and Beverly Hotaling for all the work done on the FEMA submission of the six (6) projects.

MONTHLY REPORT OF TOWN SUPERVISOR

MONIES RECEIVED AS OF JULY 12, 2007

GENERAL & PART-TOWN FUNDS

Recreation Fees – May 2007	39,212.67
Putnam County Mortgage Tax	373,260.89
PERMA Credit	4,651.00
Tax Collector Bank Interest	104.98
Town Clerk Fees – June 2007	704.18
Justice Fees – June 2007	3,325.00
Justice Fees – June 2007	3,410.00
Building Fees- June 2007	7,573.00
Bank Interest	2,366.38

HIGHWAY FUND

Bank Interest 5,449.07

CONTINENTAL VILLAGE WATER DISTRICT

Bank Interest 110.67

CONTINENTAL VILLAGE PARK DISTRICT

Bank Interest 501.09

Clubhouse Fees 400.00

AGENDA

1. Honorary Resolution for Jennifer Walsh – Gold Award for Girl Scouting.

RESOLUTION #174-07

The following Resolution was presented by Councilwoman Budney, seconded by Councilman Brower and unanimously carried;

WHEREAS, Jennifer Walsh set her goals to help victims of rape and abuse by coordinating an effort that included soliciting local vendors, community and family members for donations of clothing and toiletries to create comfort kits to be distributed to victims following an act of violence; and

WHEREAS, Jennifer, working with “Victim’s Assistance Services,” was able to create and distribute 100 comfort kits; and

WHEREAS, Jennifer organized a Junior Girl Scout badge workshop to explore the “Choice is Yours,” teaching the importance of always making good and healthy decisions, providing younger girls with the knowledge that they are in control of their lives and that they can make positive decisions that will effect their futures; and

WHEREAS, Jennifer’s efforts enabled her to deliver a positive message to her peers and fellow Girl Scouts to develop self-esteem and leadership skills, and provide awareness and understanding of victims of heinous crimes;

NOW, THEREFORE, BE IT RESOLVED, that we, the undersigned members of the Town Board and Town Officers of the Town of Philipstown, do hereby inscribe upon the minutes of the Town Records, our sincere congratulations to Jennifer Walsh upon her achieving the Gold Award for Girl Scouting.

2. Anthony P. Massarelli to address the Town Board concerning POW’R Against Tobacco.

Anthony P. Massarelli, Putnam County Coalition Coordinator for POW'R Against Tobacco, gave a brief history of the organization, which includes Putnam, Orange, Westchester and Rockland Counties. POW'R's mission is to promote community awareness of the effects of tobacco use and its relating lung diseases.

Mr. Massarelli asked the Town Board to consider adopting a non-binding resolution calling for tobacco advertising in retail stores to reduce overall tobacco advertising in their place of business and eliminate tobacco advertising from areas likely to be seen by children, including exterior poles, walls, windows facing "out," interior wall space below five feet, near candy displays, and on counter tops.

Councilman Shea asked if there were any movements to ban smoking in a car carrying children? Mr. Massarelli responded saying that to his knowledge, that has not yet been considered in Putnam County.

The Town Board thanked Mr. Massarelli for his presentation and stated that they would be in contact with him in the future.

3. Russell Cusick to address the Town Board concerning environmentally related issues.

Mr. Cusick thanked the Town Board for affording him this opportunity to address some of the concerns he has regarding the environment. Mr. Cusick explained that he had requested the formation of a Board of Ethics and, to date, had not heard from the Town Board with regard to this. His passion is the environment and impacts on the Hudson River tributaries throughout Philipstown.

He noted that he had visited Trout Brook Stream and was astonished with what he saw in the streambed along East Mountain Road, ¼ mile from the Putnam/Dutchess border. It appears to him that the stream is dying, and implores anyone to visit the site to see for him or her selves the impact on this stream. He feels strongly that this must be addressed, claiming drainage having been the major impact to this stream and others. He stated that as taxpayers, we are paying for tons and tons of gravel to be hauled to the top of East Mountain Road, Old Albany Post Road or Jaycox Road. By filling in the sides of the paved surfaces and on top of the dirt road surfaces, rainfall washes the gravel into the streams.

Mr. Cusick also addressed a new construction site that in his opinion is located to close to a wetland and has no permits. Councilman Shea interjected that the property owner does indeed have both a wetland and building permit. Councilman Shea also noted for the record, that the project Mr. Cusick is referencing was started well before the setbacks were adopted. Councilman

Monthly Town Board Meeting
July 12, 2007

Shea stated that the property owner has not gone through this process completely unregulated. He did go before the appropriate boards and the entire process. A field inspection was also performed and the Wetlands Inspector continues to monitor the site. Discussion continued with regard to a contractor not being licensed in Putnam County.

Supervisor Mazzuca commented that in Mr. Cusick's letter dated June 25th, the first paragraph stated "as a resident who currently pays taxes and votes in the Town of Philipstown, I hereby request to be added to the agenda for the July Town Board Meeting," Supervisor Mazzuca stated that you don't have to be a taxpayer or a voter to come before the Town Board.

Supervisor Mazzuca then responded to Mr. Cusick with respect to environmental issues and how these issues are being dealt with and have been dealt with during his tenure. Since 1994, this Town Board and especially community volunteers, have accomplished many issues as follows:

Wetlands Law Adopted; numerous meetings regarding Indian point and adopted Resolution; Route 9D Corridor Management Plan; Comprehensive Plan was adopted; formed Roads Advisory Committee; Stream testing on Indian Brook, Philipse Brook and Foundry Brook; Steep Slopes Law Adopted; Soil Mining Law revised; Landfill Closure; Resolution adopted opposing strip mining of Hudson Highlands; Resolution adopted opposing transportation of Radioactive waste through Philipstown; annual contributions to Putnam County for Hazardous waste clean up; instituted twice annual town-wide cleanups; Cell tower moratorium; cell tower law adopted; Resolution adopted supporting designation of Hudson River as an American Heritage River; formed Large Tracts of Land Committee; Blasting Law passed; Aquifer Study completed; Wind Energy Purchased; considering changing CAC to Conservation Board; Hemlock Tree Devastation addressed; "Preserve America" Resolution adopted; Environmentally Sensitive Lands Law adopted; considering Natural Resource Plan and Open Space Index; Resolution supporting the Community Preservation Act; supported the Rural Preservation Program; Resolution adopted for the addition of Indian Brook Road and Avery Road to the Greenway Trail; established Escrow Accounts for Wetlands Application and Groundwater Report; and Planning Resource Plan completed by Chazen Companies.

Supervisor Mazzuca also pointed out that the budget has reflected a steady increase of funding for drainage throughout Philipstown, which had not been the case in the past.

Mr. Cusick talked about a program that would have developers and property owners fund coffers to add to the infrastructure, and he thinks this is a good program and would benefit the Town. He added that any building project that occurs now, the Town does not have the infrastructure to accommodate the

Monthly Town Board Meeting
July 12, 2007

Stormwater runoff, as experienced with the April storm. Mr. Cusick noted some of the roadways and culverts that were unable to handle the water flow.

Councilman Shea responded to that comment stating that regardless of the current infrastructure, storms of that nature would have an impact. He also commented that there is always room for improvement of our infrastructure.

Mr. Cusick went on to talk about a situation on East Mountain Road North by Route 9, where the homeowner diverted the stream and installed a culvert, which failed, and the taxpayers have paid for the repairs. He stated that he thinks it's very important that going forward, we need to address the fact; that we continue to build and people profit from the building. However, we're not adding to our infrastructure. This is the reason everything flows to the Hudson River.

Councilman Shea agreed, and indicated to Mr. Cusick that the Town is currently working on a Stormwater Management Law, noting that it will address a one-acre disturbance. Enforcement of this law will be difficult. The Town will need full time enforcement.

Mr. Cusick went on to identify problem areas throughout the Town impacting the Hudson River and wildlife.

Councilman Shea reminded everyone, that the Town Board is considering a transfer tax that would enable funds for land acquisition in the future, noting that this is a huge undertaking.

Councilman Shea explained that Roger Chirico annually attends classes at Cornell, which addresses new technology available to maintain dirt roads. He stated that when you have a certain percent of grade on dirt roads and a heavy rainfall occurs, no matter how it is graded it would wash out. The same holds true with paved roads, as the shoulders erode.

Councilman Shea stated that he isn't advocating dirt or paved roads, but stressed that when there is a 12% grade on either, materials are going to wash away. Pave surfaces, however, don't accumulate as much silt.

Mr. Cusick feels that drainage should be a priority in the Town. Councilman Shea noted that as far the Highway Department is concerned, it is.

Suzie Gilbert suggested that the Town hire an Environmental Violation Officer. Supervisor Mazzuca responded stating that just last night this very thing was discussed. Whether or not this position would be part-time or full-time was yet to be decided.

Councilman Shea stated that he is more inclined to lean towards prevention, because if your going to talk about enforcement issues then the damage has

Monthly Town Board Meeting
July 12, 2007

already been done. The Town could hire an engineer to review the plans and conduct site visits to make sure that violations don't occur and mitigation is taken care of, and all efforts are put forth.

Suzie Gilbert agreed. However, a Violation Officer's presence would deter violations in the future. Councilman Shea noted that an engineer could direct the Wetlands Inspector or the Code Enforcement to issue violations, something that we don't have at present. Ms. Gilbert asked for a time frame. She was told that this would be addressed during this year's budget process.

Mr. Cusick then asked what was involved in creating a Conservation Board and what is the time line? Councilman Shea stated that as soon as the Town completes the Open Space Inventory and adopts the same, the change should take place. Andy Chmar added that the CAC has to give the Town the Index, and they are in the process of finalizing it. The next step is for them to accept and adopt the index. When this has happened, the Town Board can then take the necessary steps to commission the CAC as a Board. Anticipated time for the Open Space Inventory is approximately a month. It was also noted that there would be public hearings, etc., to meet the requirements of the open meetings law.

In response to a comment posed by Steve Loria regarding the issuance of wetland permits, Councilman Shea stated that the time is coming where wetland permits were not going to be approved. He noted that property owners have rights and the Town tries to work with them. He further explained if you own a 5-acre piece of property and you pay taxes and it's zoned residential, the expectation is that a residence will be built on that property. If you deny someone the right the use of their property, that's a taking. You have to compensate them financially or let them put the residence on the property. That is New York State Law. If you go to court and can't produce grounds for denial, the Town will be sued. Fair use of the property and its definition was discussed. Discussion continued at length with regard to existing wetlands violations between Mr. Cusick and Councilman Shea.

Andy Chmar responded to a question posed by Steve Loria, stating that the Hudson Valley Community Preservation Act was passed by the Legislature two weeks ago. It is now sitting on the Governors desk awaiting approval. This act gives the Town the authority to establish a CP Fund and create a real estate transfer tax on the sale of real properties. He noted that this is a three step process. First, the Town Board has to pass a local law establishing the transfer tax in conjunction with the Open Space Index that would outline acquisition parcels. It is then placed on the ballot at the General Election. If passed, it would go on the books after the first of January 2008. He noted that a citizen's group, not including a public official, has to develop a priority list so that when funds and the parcel become available for acquisition, those monies can be

Monthly Town Board Meeting
July 12, 2007

spent on those properties on that list. It can also be used for historic properties and areas of public recreation.

Mr. Chmar noted that it's a fair tax, and that it won't tax any property below the medium price in Putnam County. Also, the Town can establish the percentage of tax up to 2%.

4. Resolution approving and authorizing Supervisor Mazzuca to sign the Parade Permit request from the Michael Shortell Memorial Scholarship Fund to be held on September 8, 2007, and also waive the fee associated with the application.

RESOLUTION #175-07

The following Resolution was presented by Councilwoman Budney, seconded by Councilman Shea and unanimously carried;

RESOLVED, that the Town Board hereby approves and authorizes Supervisor Mazzuca to sign the Parade Permit for the Michael Shortell Memorial Scholarship Fund to be held on September 8, 2007, and waive any fees associated with the application.

5. Award the bid for the electrical work at the Garrison Landing Water District.

RESOLUTION #176-07

The following Resolution was presented by Councilman Brower, seconded by Councilman Hosmer and unanimously carried;

RESOLVED, that the Town Board hereby awards the bid for the electrical connections at the Garrison Landing Water District to Pidala Electric, Inc., in the amount of \$16,500.00

6. Schedule Meetings/Workshops.

No workshops were scheduled. However, the Town Board discussed the Public Hearing needed for the Local Law to amend the Code of the Town of Philipstown changing the date of the Zoning Map. The Town Board will refer this matter to the Planning Board and Putnam County Division of Planning for their review and comment.

RESOLUTION #177-07

The following Resolution was presented by Councilwoman Budney, seconded by Councilman Hosmer and unanimously carried;

RESOLVED, that the Town Board hereby requests that the Town Clerk forward the proposed Local Law to change the date of the Zoning Map, to the Planning Board and the Putnam County Division of Planning and;

BE IT FURTHER RESOLVED, that the Town Clerk is hereby directed to have Tim Miller Associates revise the Environmental Assessment Form.

7. Code Enforcement Monthly Report.

Town Clerk Merando read the Monthly Report. Councilman Shea pointed out that the month of June is one of the busiest construction months and, as indicated on the report, there were no new house starts.

8. Any other business that may come before the Town Board.

Supervisor Mazzuca stated that the Town Board has concerns regarding the Fishkill Road Project and have decided to pass a resolution requesting from the County the date certain when the project is going to begin and end.

RESOLUTION #178-07

The following Resolution was presented by Councilman Brower, seconded by Councilman Hosmer and unanimously carried;

WHEREAS, the Fishkill Road Re-Alignment Project has been under design since 1997; and

WHEREAS, in 1994, Gov. George Pataki, then a State Senator, was successful in obtaining State funding for a project in the Town of Philipstown, County of Putnam; and

WHEREAS, of June 28, 2005, Harold Gary, Commissioner of Putnam County Highway Department wrote, "We anticipate that the last parcel acquisition for this project will be completed within a couple of weeks. When the property acquisition phase of this project is complete, we will send the plans and report to OPRHP for their review. I will notify you when we have received a determination from OPRHP;" and

WHEREAS, on June 7, 2006, the Town of Philipstown received confirmation from New York State Office of Parks, Recreation and Historic Preservation (OPRHP's) that they have reviewed the project in accordance with the NYSOPRHP Preservation Law, Section 14.09, and based upon this review, stated the proposed Re-Alignment Project will have NO IMPACT on cultural resources in or eligible for inclusion in the State and National Registers of Historic Places; and

WHEREAS, Supervisor Mazzuca hereby certified that by Resolution #221-06 adopted on October 5, 2006, at its regular monthly meeting; the Town Board of the Town of Philipstown has expressed its support of the project to realign Fishkill Road; and

Monthly Town Board Meeting
July 12, 2007

WHEREAS, to date, the Town of Philipstown has not been notified of the status of the proposed re-alignment project on Fishkill Road;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Philipstown hereby requests the date certain when the project is going to begin and end; and

BE IT FURTHER RESOLVED, the Town Board of the Town of Philipstown hereby express their concern for the safety and welfare of the children that will be impacted by this project for the 2007/2008 school bus transportation route, as well as, the general public and the North Highlands Fire District Facility.

The Town Board directed Town Clerk Merando to forward the above Resolution to Robert Bondi, Harold Gary, Senator Vincent Leibell, and Assemblywoman Sandy Galef.

Supervisor Mazzuca stated that the Town Board wants to set up an escrow account for cell towers if the Town enters into negotiations with Verizon Wireless.

RESOLUTION #179-07

The following Resolution was presented by Councilman Shea, seconded by Councilman Brower and unanimously carried;

WHEREAS, the Town Board of the Town of Philipstown wishes to establish an escrow fund in connection with the request by Verizon Wireless to obtain a lease for a site at the former landfill for a cellular tower;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Philipstown does hereby authorize an escrow fund pursuant to Code Chapter 71, Article 1, of \$7,500.00 to be required of Verizon Wireless to be used in connection with any Lease negotiation and subsequent review of any application for a cell tower site.

Councilman Shea reported that the Town is in receipt of the Groundwater Report and Planning Resource prepared by The Chazen Company. It is available at the Town Hall and is also on the Town's Website, or available digitally.

Councilman Hosmer mentioned that he has seen some problems on Channel 22 and asked if Cablevision has been helpful in trying to get the Municipal Channel up and running. Town Clerk Merando explained that the static has been cleared up and Cablevision has been very helpful. She also announced that any not-for-profit organization that would like to have something advertised should contact the Town Clerk's Office.

Monthly Town Board Meeting
July 12, 2007

Tony Percacciolo addressed the Town Board with regard to his outrage with the Wetlands Inspector. It seems that the Wetlands Inspector is pursuing a court appearance for Mr. Percacciolo, citing violations occurring at Clove Creek where he is filling in his property along Route 9. He noted that he is cleaning up the land and has no current plans to develop the property. Following a lengthy discussion, Councilman Shea stated that he would research this matter.

VACANCIES

CVPD Advisory Committee (2)
CVWD Advisory Committee (2)
Conservation Advisory Council (1)
Board of Assessment Review (1)

APPROVAL OF VOUCHERS

Councilman Shea made a motion, seconded by Councilwoman Budney and unanimously carried that the General Vouchers in the amount of \$74,609.02, as set forth in Abstracts 6A & 7 are hereby approved.

Councilman Hosmer made a motion, seconded by Councilman Brower and unanimously carried that the Highway Vouchers in the amount of \$52,471.19, as set forth in Abstract 7 are hereby approved.

Councilwoman Budney made a motion, seconded by Councilman Shea and unanimously carried that the CV Park District Vouchers in the amount of \$2,290.42, as set forth in Abstract 7 are hereby approved.

Councilman Hosmer made a motion, seconded by Councilman Shea and unanimously carried that the CV Water District Vouchers in the amount of \$590.09, as set forth in Abstract 6A are hereby approved.

There being no further business to discuss, Councilwoman Budney made a motion, seconded by Councilman Brower to close the Monthly Meeting at 9:50 p.m.

Respectfully submitted by,

Tina M. Merando
Town Clerk